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SENATE

REPORT
101-231

SALT LAKE CITY WATERSHED IMPROVEMENT ACT OF 1989

DECEMBER 20 (legislative day, NOVEMBER 6), 1989.—Ordered to be printed

Filed under authority of the order of the Senate of November 22 (legislative day, November 6), 1989

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 319]

The Committee on Energy and Natural Resources to which was referred the bill (S. 319) to effect an exchange of lands between the United States Forest Service and the Salt Lake City Corporation within the State of Utah and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Salt Lake City Watershed Improvement Act of 1989".

SEC. 2. FINDINGS AND PURPOSES.

(a) The Congress finds that—

(1) current land ownership patterns in the Northern Canyons of the Wasatch Mountains east of Salt Lake City, Utah, unnecessarily impede efficient land and water resource management activities by the Forest Service and Salt Lake City on their respective lands;

(2) the Act of September 19, 1914, reserved Federal lands in these canyons from mineral entry and set them aside as a municipal water supply reserve for the use and benefit of Salt Lake City;

(3) the 1914 Act further provides for cooperation between the Forest Service and Salt Lake City in managing the lands for municipal water supply purposes; and

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(4) a consolidation of Forest Service lands and Salt Lake City lands in the canyon vicinities would be in the public interest and would enhance land management and water resource protection opportunities for both Salt Lake City and the Forest Service.

(b) The purposes of this Act are to authorize an exchange of Forest Service and Salt Lake City lands to consolidate ownership and facilitate management, to adjust boundaries of the Wasatch National Forest accordingly, and to protect valid existing rights appurtenant to lands subject to conveyance under this Act.

SEC. 3. CONVEYANCE OF LANDS

(a) The Secretary of Agriculture (hereafter referred to as the "Secretary") is authorized and directed to convey certain Federal lands managed by the Forest Service within the State of Utah, and generally as depicted on the map entitled "Salt Lake City—Wasatch National Forest Land Exchange" and dated November, 1989, for certain lands owned the Salt Lake City Corporation (hereinafter referred to as the "City") as generally depicted on such map. Such map, along with a legal description of all lands to be conveyed, shall be on file and available for public inspection in the office of the Forest Service, Department of Agriculture. The Secretary shall convey such Federal lands to the City only upon the occurrence of all of the following:

(1) Publication by the Secretary in the Federal Register of a legal description of all Federal lands to be conveyed to the City pursuant to this Act;

(2) Publication by the Secretary in the Federal Register of a legal description of all City lands to be conveyed to the United States pursuant to this Act;

(3) Written notification by the City to the Secretary that the City accepts the provisions of this Act;

(4) Delivery to the Secretary by the City of documents of conveyance of the lands to be conveyed by the City; and

(5) Delivery to the City and the Secretary of written approval by the Attorney General of the United States of the title to the lands described in documents of conveyance submitted by the City within three months of their receipt by the Secretary.

(b) Conveyances of Federal lands under this Act shall be completed notwithstanding—

(1) the reservations of the Act of September 19, 1914;

(2) section 206(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716); and

(3) withdrawals of lands under the United States court case National Wildlife Federation versus Burford.

(c) Unless otherwise described in the legal land descriptions as provided under subsection (a), all land acquisitions and conveyances made pursuant to this Act shall only include the surface estate.

(d) Land conveyances pursuant to this Act shall not require the preparation of an environmental analysis or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(e) Lands acquired by the United States pursuant to this Act shall be added to, and administered as part of, the National Forest System under principles of multiple use/sustained yield consistent with and conforming to the reservations and purposes of the Act of September 19, 1914 and this Act.

(f) Upon conveyance of the lands pursuant to this Act, the Secretary is directed to modify the boundaries of the Wasatch National Forest to exclude those lands conveyed from the United States to the City and to include those lands conveyed from the City to the United States.

(g) Valid existing rights appurtenant to lands acquired by the Secretary or acquired by the City pursuant to this Act shall be recognized, protected, and managed by the acquiring government in accordance with the terms and authorities under which such rights were issued until new, similar rights can be issued by the acquiring government;

(1) in the case of lands acquired by the Federal Government, the Secretary shall negotiate with holders of valid existing rights appurtenant to such lands issued by the City and provide such holders of rights new, similar rights under the authority of the Federal Government.

(2) in the case of lands acquired by the City—

(A) the City shall negotiate with holders of grazing permits, special use permits (to include easements and right-of-ways), or other valid existing rights appurtenant to such lands issued by the Federal Government and

provide such holders of rights with similar new rights under the authority of the City; and

(B) the Secretary and the Secretary of the Interior shall consult and cooperate with the City on any terms and conditions, consistent with watershed and water resource protection under the Act of September 19, 1914, for leaseholder or mining claimant access to the mineral estate retained by the Federal Government.

(h) The City will recognize the designation of the Mormon Pioneer National Historic Trail over lands which it acquires pursuant to this Act and will manage its lands in a manner consistent with such designation.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

PURPOSE OF THE MEASURE

The purpose of S. 319 is to authorize the Secretary of Agriculture to exchange approximately 8,949 acres of Federal land near Salt Lake City currently managed by the Forest Service for approximately 8,940 acres of land owned by Salt Lake City in order to consolidate both the city's and Forest Service's land holdings.

BACKGROUND AND NEED

Soon after it was founded in 1847, Salt Lake City began acquiring lands in four nearby canyons (City Creek, Red Butte, Emigration and Parleys) in order to preserve the city's water supplies. For the most part, the city has only acquired title to the surface estate of these properties.

The Federal Government owns a significant amount of land in the area, most of which is managed by the Forest Service in the Wasatch National Forest. In order to protect the city's water resources, Congress in 1914 withdrew all Federal lands in the canyons from mineral entry and disposal. Since that time, both the Forest Service and the city have cooperated in managing the area for the protection of the watershed.

Both the Federal Government and the city own land in each of the four canyons, with ownership ranging from 83 percent Federal in Red Butte Canyon to 56 percent city owned in City Creek Canyon. A large part of the land in some of the canyons is still in private ownership.

Because of the checkerboard pattern of land ownership between the Federal Government and the city, effective management of the area for watershed protection has become difficult. Under this legislation, the city will exchange 8,940 acres of property it owns for 8,949 acres of Forest Service property. Currently, the Forest Service manages 25,122 acres within the four canyons and the city owns 22,824 acres. Enactment of S. 319 will allow both the Federal Government and the city to consolidate their land holdings while maintaining the protection of the watershed.

LEGISLATIVE HISTORY

S. 319 was introduced by Senators Garn and Hatch on January 31, 1989. Companion legislation, H.R. 807, has been introduced in the House of Representatives. The Subcommittee held a hearing on S. 319 on September 12, 1989.

At the business meeting on November 15, 1989, the Senate Committee on Energy and Natural Resources ordered S. 319, as amended, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on November 15, 1989, by unanimous vote of a quorum present, recommends that the Senate pass S. 319, if amended as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays, as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	

Mr. Metzenbaum
Mr. Bradley*
Mr. Bingaman*
Mr. Wirth*
Mr. Conrad
Mr. Heflin
Mr. Rockefeller*
Mr. McClure
Mr. Hatfield*
Mr. Domenici
Mr. Wallop
Mr. Murkowski*
Mr. Nickles*
Mr. Burns
Mr. Garn*
Mr. McConnell

*Indicates voted by proxy.

COMMITTEE AMENDMENTS

The Committee adopted an amendment in the nature of a substitute. The amendment simply makes several clarifying and technical changes.

SECTION-BY-SECTION ANALYSIS

Section 1 entitles the Act the "Salt Lake City Watershed Improvement Act of 1989."

Section 2 contains the Congressional findings and purposes.

Subsection 3(a) authorizes and directs the Secretary of Agriculture (the "Secretary") to convey certain Federal lands managed by the Forest Service for certain lands owned by the Salt Lake City Corporation (the "city"). The lands to be exchanged are depicted on the Forest Service map entitled "Salt Lake City-Wasatch National Forest Land Exchange" and dated November, 1989. The lands are to be conveyed only after the Secretary publishes a legal description of Federal and city lands to be conveyed in the Federal Register, the Secretary receives written notification that the city accepts the provisions of this Act, and the Attorney General of the United States gives written approval of title of the lands described in the documents of conveyance.

Subsection (b) provides that conveyances of Federal lands are to be made notwithstanding the reservations of the 1914 Act, and section 206(a) of the Federal Land Policy and Management Act of 1976. Section 206 states that land exchanges between the Federal Government and a non-Federal entity must be of equal value, with the party conveying lands of lesser value paying the difference in cash. As both the Federal and city lands will continue to be managed for watershed purposes after the exchange, the Committee does not believe that the appraisal process is necessary in this case.

Subsection (c) states that only the surface estate is to be exchanged pursuant to this Act.

Subsection (d) exempts the land conveyances made pursuant to this Act from the preparation of an Environmental Analysis or an Environmental Impact Statement required by the National Envi-

ronmental Policy Act of 1969. It is the Committee's view that this subsection simply clarifies that when, as in this case, a Federal agency is directed by Congress to perform an action, the provisions of NEPA requiring the preparation of Environmental Analyses or Environmental Impact Statements are not applicable.

Subsection (e) adds any lands acquired by the Federal Government to the National Forest System consistent with the reservations and purposes of the 1914 Act and this Act.

Subsection (f) directs the Secretary, upon the conveyance of lands pursuant to this Act, to modify the boundaries of the Wasatch National Forest to exclude those lands conveyed from the United States to the city and to include those lands conveyed from the city to the United States.

Subsection (g) provides that valid existing rights shall be recognized, protected, and managed by the acquiring government in accordance with the terms and conditions under which such rights were issued until similar rights can be issued by the acquiring government.

Subsection (h) states that the city will recognize the designation of the Mormon Pioneer National Historic Trail over lands which it acquires pursuant to this Act.

Section 4 authorizes the appropriation of such sums as are necessary to carry out the purposes of this Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 18, 1989.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressiojnal Budget Office has reviewed S. 319, the Salt Lake City Watershed Improvement Act of 1989, as ordered reported by the Senate Committee on Energy and Natural Resources on November 15, 1989. Based on information from the Forest Service, we estimate that enactment of this bill would result in a small savings to the federal government by reducing the number of property boundaries to be maintained. These savings are expected to total less than $300,000 over the next five years.

S. 319 would authorize an exchange of lands between the Forest Service and Salt Lake City in order to consolidate ownership. The bill would also adjust the boundaries of the Wasatch National Forest, protect valid existing rights on affected lands, and authorize the aappropriation of whatever sums are necessary to carry out the purposes of the bill.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Thresea Gullo, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 319. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businsses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 319, as reported.

EXECUTIVE COMMUNICATIONS

On May 4, 1989, the Committee on Energy and Natural Resources requested legislative reports from the Department of Agriculture and the Office of Management and Budget setting forth the Administration's views on S. 319. These reports had not been received at the time the report was filed. When the reports become available, the Chairman will request that they be printed in the Congressional Record for the advice of the Senate. the testimony provided by the Forest Service at the Subcommittee hearing on S. 319 follows:

STATEMENT OF GEORGE M. LEONARD, ASSOCIATE CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the subcommittee: Thank you for this opportunity to offer the Department of Agriculture's views on S. 319. The bill would authorize an exchange of lands between the Forest Service and the Salt Lake City Corporation in Utah.

The Department of Agriculture fully supports the concept of this exchange. However, the process proposed in S. 319 is somewhat inconsistent with our current land exchange authorities. We would like to work with you to improve the procedural language while retaining provisions that are needed to resolve certain restrictions in our current authorities that prevent us from completing this particular exchange.

S. 319 would direct the Secretary of Agriculture to convey the surface estate of approximately 8,950 acres of Wasatch National Forest lands to the City of Salt Lake in exchange for the surface estate of approximately 8,940 acres of city-owned land. The exchange would concentrate Forest Service administrative activities in northern Salt Lake County around the Red Butte Research Area, Dale's Ridge, and south of Parleys Canyon. The City's administration would be concentrated in City Creek and the Mountain Dell drainages. The National Forest boundary would be adjusted accordingly. Protective withdrawals would be changed to conform

with the changed landownership. Valid existing rights and uses on both city and Federal land would be protected.

I would like to point out a particular concern we have with this exchange, the creation of split estates on the land. We recognize that the subsurface ownership pattern is complex, and the subsurface of some of the City parcels is already owned by the United States. However, it would generally be preferable in the long run to reduce the number of split estates as much as possible. We have also become aware of additional withdrawals to the Corps of Engineers that must be addressed. We are still studying the best method to resolve these issues and would like to work with the subcommittee to develop suitable language to accomplish this.

This exchange would benefit both the city and the Forest Service by consolidating lands for administrative purposes, thus increasing management efficiency. For example, the exchange would result in a reduction of about 65 miles of property boundary and 110 property corners. This would save about $360,000 over the next 5 years in managing and maintaining boundaries.

Legislation is necessary to complete this exchange, because some of the parcels of city land lie outside the existing boundaries of the National Forest and cannot otherwise be acquired. In addition, many of the National Forest System tracts are encumbered by a statutory withdrawal.

In summary, although we support this exchange, we have reservations concerning the specification of new procedural requirements that are not consistent with existing Federal statutes designed specifically to address key aspects of exchanges such as this one. We would like to work with you to develop amendments to address our concerns.

I will be pleased to answer your questions or provide additional information.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 319, as reported.

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